

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA

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|-------------------------|---|-----------------------------|
| DEVY FOSTER | * | CIVIL ACTION |
| AND CHARLES FOSTER | * | |
| | * | |
| VERSUS | * | NUMBER: 1:17-cv-656 |
| | * | |
| WAL-MART LOUISIANA, LLC | * | JUDGE: |
| | * | |
| | * | MAGISTRATE: |
| | * | |
| | * | <u>JURY TRIAL REQUESTED</u> |
| * * * * * | * | |

NOTICE OF REMOVAL AND JURY DEMAND

TO: Greta Roaix– Deputy-in-Charge
United States District Court
Western District of Louisiana
Clerk of Court
515 Murray St., Suite 105
Alexandria, LA 71301

Mr. Eugene A. Ledet, Jr.
Mr. Brock H. Duke
Mr. Brian M. Caubarreaux
Brian Caubarreaux & Associates
4501 Jackson St. Ext., Suite A
Alexandria, LA
ATTORNEY FOR PLAINTIFF

NOW INTO COURT, through undersigned counsel, comes WAL-MART LOUISIANA, LLC, a Delaware limited liability company (“Wal-Mart”), defendant in the above entitled cause, and appearing solely for the purpose of presenting this Notice of Removal of the above entitled cause to this Honorable Court under the provisions of 28 U.S.C. § 1441, *et seq.*, and reserving all rights, respectfully shows as follows:

1.

This suit was filed by plaintiff in Alexandria City Court, Civil Action No. 135297, Rapides Parish, Louisiana, on October 3, 2016. Wal-Mart was served with a copy of plaintiffs' Petition and Citation on or about October 26, 2016.

2.

Plaintiff's Petition incorrectly named Wal-Mart Stores, Inc., when the proper Wal-Mart entity is Wal-Mart Louisiana, LLC, which entity operates all of the Wal-Mart stores in the State of Louisiana. An answer was filed on behalf of Wal-Mart Louisiana, LLC in the state court proceeding on December 12, 2016.

3.

Wal-Mart alleges that plaintiffs, Devy and Charles Foster, are residents, citizens, and domiciliaries of the State of Louisiana.

4.

Defendant, Wal-Mart Louisiana, LLC, is a Delaware limited liability company with its principal place of business in Bentonville, Arkansas, and its sole member or owner being Wal-Mart Stores East, LP, a Delaware limited partnership with its principal place of business in Bentonville, Arkansas and which is composed of two partners, namely WSE Management, LLC (GP) and WSE Investment, LLC (LP), both Delaware limited liability companies with their principal place of business in Bentonville, Arkansas, and the sole member of said two limited liability companies is Wal-Mart Stores East, Inc., an Arkansas corporation with its principal place of business in

Bentonville, Arkansas. All shares of stock in Wal-Mart Stores East, Inc. are owned by Wal-Mart Stores, Inc., a Delaware corporation with its principal place of business in Bentonville, Arkansas, which is a publicly held company.

5.

In their Petition, plaintiffs allege Ms. Foster was injured when she slipped and fell in accumulated water on the floor at the Wal-Mart store located at 2505 N. Mall Dr. Alexandria, Louisiana.

6.

In their Petition, plaintiffs allege that Ms. Foster suffered, among other things, physical and mental pain and suffering, loss of income, medical expenses, loss of enjoyment of life and physical disability. It is alleged that Mr. Foster suffered loss of consortium and society.

7.

Consistent with Louisiana law, plaintiff does not allege in her Petition any specific monetary amount of the value of her claims.

8.

On April 28, 2017, undersigned counsel for Wal-Mart received plaintiffs' Answer to Defendant's Request for Admission.

9.

In response to Wal-Mart's Request for Admission, plaintiffs admit that the amount of damages sought by any single plaintiff in this lawsuit exceeds the sum of \$75,000.00, exclusive of interest and cost. (Exhibit A).

10.

Based upon this admission, Wal-Mart alleges the amount in controversy in this suit exceeds \$75,000.00, exclusive of interest and costs.

11.

Pursuant to 28 USC § 1446(b), this Notice of Removal is timely because plaintiffs' Answer to Request for Admission, received by Wal-Mart on April 28, 2016, constitutes an "other paper from which it was first ascertained that the case is one which is or has become removable," and the Notice of Removal is filed within one year after the commencement of the action.

12.

This Court has jurisdiction of this cause of action under 28 USC § 1332.

13.

The proper court for removal is the United States District Court for the Western District of Louisiana.

14.

Defendant requests a trial by jury as to all issues triable by a jury.

15.

Defendant further shows unto the Court that immediately upon the filing of this Notice of Removal, a copy of same shall be served upon all adverse parties and a copy filed with the Clerk of the Alexandria City Court, Rapides Parish, Louisiana, all in accordance with 28 USC § 1446(d).

16.

Pursuant to Rule 11 of the Federal Rules of Civil Procedure, undersigned counsel certifies that he has read the foregoing Notice of Removal, that, to the best of his knowledge, information, and belief formed after reasonable inquiry, it is well grounded in fact and is warranted by existing law or good faith argument for the extension, modification, or reversal of existing law, and that it is not interposed for any improper purpose, such as to harass or cause unnecessary delay or needless increase in the costs of litigation.

WHEREFORE, Wal-Mart Louisiana, LLC removes the above-entitled case from the state court to this Court.

Respectfully submitted,

CHADWICK LAW FIRM, LLC

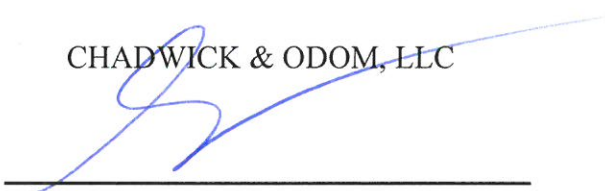
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Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing pleading has been served upon all counsel of record by placing same in the U.S. Mail, postage prepaid and properly addressed, or by fax, this 18th day of May, 2017.

CHADWICK & ODOM, LLC



Gregory B. Odom, II (#33470)